

REMARKS

The rejections under 35 U.S.C. § 103(a) of Claims 1-4 and 7-9 as unpatentable over either U.S. 5,082,498 (Kurtz et al) or U.S. 4,464,203 (Belde et al), and of Claims 5 and 6 over Kurtz et al or Belde et al, either in view of U.S. 6,646,023 (Nyssen), are respectfully traversed.

As described in the specification beginning at page 1, line 25, liquid systems are customarily colored using pigment formulations in, in effect, liquid form, containing solvent, dispersants, and other additives. There is a desire in the art for pigment preparations having comparable color properties and dispersibility, without the presence of such additives, and easier to handle. Two such pigment preparations of the prior art are those disclosed in EP-A-84 645 and EP-A-403 917, which are the European equivalents of Belde et al and Kurtz et al, *supra*, respectively, which are described in the specification herein at page 2, lines 1-6. As described therein, and as discussed in greater detail below, neither Belde et al nor Kurtz et al disclose an anionic additive. More particularly, neither Belde et al nor Kurtz et al disclose an anionic surface-active additive.

Belde et al discloses highly concentrated, dust-free, solid and readily dispersible formulations containing 70-95% by weight of one or more finely divided pigments and from 5 to 30% by weight of one or more nonionic surface-active agents, as described therein. Kurtz et al is described as an improvement over Belde et al (column 1, lines 16-35), and discloses solid pigment formulations containing 70-97% by weight of one or more pigments, and 3-30% of a nonionic surface-active agent different from the one disclosed by Belde et al.

The Examiner relies on identical disclosures in Belde et al (column 3, line 15) and Kurtz et al (column 3, line 24) of "sulfonic acids." Sulfonic acids are listed in both Belde et al and Kurtz et al as an example of a pH-controlling agent, and as an example of an agent conventionally used in pigment formulations. However, a sulfonic acid is not surface-active

by virtue of being a sulfonic acid *per se*. It is notoriously well-known that for surface activity, a compound must contain hydrophilic and hydrophobic moieties. Thus, while many anionic surface-active agents are known that have sulfonic acid moieties, these surface-active agents must contain a hydrophobic moiety. Surface-active sulfonic acids would not be used for purposes of pH-regulating, i.e., buffering. In addition, since Belde et al and Kurtz et al both disclose the presence of a surface-active agent as another component, it is clear that if these references also required a different type of surface-active agent, such as an anionic surface-active agent, it would have been disclosed.

The Examiner relies on Nyssen for its disclosure of polyphosphates (column 5, lines 51-52). However, such materials are not anionic surface-active materials. Moreover, even if Nyssen were combined with Belde et al or Kurtz et al, the result would not be the presently-claimed invention.

For all the above reasons, it is respectfully requested that the rejections over prior art be withdrawn.

The provisional rejection of Claims 1-10 under the judicially created doctrine of obviousness-type double patenting over Claims 1-8 of co-pending Application No. 10/501,328 (co-pending application), is respectfully traversed. The claims of the co-pending application do not recite the presence of an anionic surface-active additive. It would not have been obvious to include such an additive in the invention of the co-pending application, since there is no suggestion in the claims therein or in any other prior art to do so. Accordingly, it is respectfully requested that this provisional rejection be withdrawn.

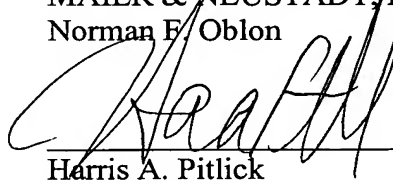
The rejections of Claim 10 under 35 U.S.C. § 112, second paragraph, and under 35 U.S.C. § 101, are respectfully traversed. Indeed, the rejections are now moot in view of the above-discussed amendment. Accordingly, it is respectfully requested that they be withdrawn.

Application No. 10/501,343  
Reply to Office Action of June 28, 2005

All of the presently-pending claims in this application are now believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon

A handwritten signature in dark ink, appearing to read 'Harris A. Pitlick', is written over a horizontal line.

Harris A. Pitlick  
Registration No. 38,779

Customer Number

22850

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

NFO:HAP\la